

ASSEMBLY BILL

No. 512

Introduced by Assembly Member Bates

February 18, 2003

An act to amend Sections 1363 and 1368 of, to add Sections 1350.5 and 1350.7 to, to add Article 4 (commencing with Section 1357.100) and Article 2 (commencing with 1378.010) to, and to add chapter and article headings to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of, the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 512, as introduced, Bates. Common interest developments.

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments. The act requires that a common interest development have a recorded declaration, as specified, and permits the declaration to be amended according to the act's provisions or those of the governing documents, as defined. The act requires that a common interest development be managed by an association, and that a member of the association may attend meetings of the board of directors of the association, except when they meet in executive session to consider specified matters.

This bill would revise the Davis-Stirling Common Interest Development Act to add chapter and article headings to its provisions. The bill would specify that these headings do not change the scope, meaning, or intent of the bill.

This bill would also add provisions concerning procedural fairness in decisionmaking and rulemaking by associations. The bill would add requirements regarding operating rules relating to the use of the

common area, the use of a separate interest, member discipline, and assessment collection, as specified. Among other things, the bill would establish criteria for valid operating rules, require that members have notice and an opportunity to comment, provide an optional rulemaking procedure and an optional emergency rulemaking procedure, and establish a procedure for reversing a rule. The bill would also require that a decision on a proposed alteration of a separate interest, exclusive use common area, or a common area, by an owner of a separate interest, be made in good faith and in a fair and reasonable manner, and would establish an optional decisionmaking procedure for these alterations that would satisfy this requirement. The bill would further provide general document delivery rules, to be applicable when specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. A chapter heading is added to Title 6
2 (commencing with Section 1350) of Part 4 of Division 2 of the
3 Civil Code, immediately preceding Section 1350, to read:

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5 CHAPTER 1. GENERAL PROVISIONS

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7 SEC. 2. An article heading is added to Title 6 (commencing
8 with Section 1350) of Part 4 of Division 2 of the Civil Code,
9 immediately preceding Section 1350, to read:

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11 Article 1. Preliminary Provisions

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13 SEC. 3. Section 1350.5 is added to the Civil Code, to read:

14 1350.5. Division, part, title, chapter, and section headings do
15 not in any manner affect the scope, meaning, or intent of this title.

16 SEC. 4. Section 1350.7 is added to the Civil Code, to read:

17 1350.7. (a) This section applies to delivery of a document to
18 the extent the section is made applicable by another provision of
19 this title.

20 (b) A document shall be delivered by one of the following
21 methods:

22 (1) Personal delivery.



(2) First class mail, postage prepaid, addressed to a member at the address last shown on the books of the association or otherwise provided by the member. Delivery is deemed to be complete on the fifth day after deposit into the United States Mail.

(3) E-mail, facsimile, or other electronic means, if the sender and recipient have agreed to that method of delivery. A provision of the governing documents providing for electronic delivery does not constitute agreement by a member of an association to that form of delivery. If a document is delivered by electronic means, delivery is complete at the time of transmission.

(c) A document may be included in or delivered with a billing statement, newsletter, or other document that is delivered by one of the methods provided in subdivision (b).

SEC. 5. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1351, to read:

Article 2. Definitions

SEC. 6. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1352, to read:

CHAPTER 2. GOVERNING DOCUMENTS

SEC. 7. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1352, to read:

Article 1. Creation

SEC. 8. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1354, to read:

Article 2. Enforcement

SEC. 9. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1355, to read:

Article 3. Amendment

SEC. 10. Article 4 (commencing with Section 1357.100) is added to Title 6 of Part 4 of Division 2 of the Civil Code, immediately following Section 1357, to read:

Article 4. Operating Rules

1357.100. As used in this article, “rule change” means the adoption, amendment, or repeal of an operating rule by the board of directors of the association.

1357.110. This article applies to an operating rule relating to any of the following subjects:

(a) Use of the common area or of an exclusive use common area.

(b) Use of a separate interest, including any aesthetic or architectural standards that govern alteration of a separate interest.

(c) Member discipline, including any schedule of monetary penalties for violation of the governing documents and any procedure for the imposition of penalties.

(d) Assessment collection procedures.

1357.120. This article does not apply to the following actions by the board of directors of an association:

(a) A decision in a specific case that is not intended to apply generally.

(b) A decision setting the amount of a regular or special assessment.

(c) A rule change that is required by law, if the board of directors has no discretion as to the substantive effect of the rule change.

(d) Issuance of a document that merely repeats existing law or the governing documents.

1357.130. An operating rule is valid and enforceable only if all of the following requirements are satisfied:

(a) The rule is in writing.

(b) The rule is within the authority of the board of directors of the association conferred by law or by the declaration, articles of incorporation or association, or bylaws of the association.

1 (c) The rule is consistent with governing law and the
2 declaration, articles of incorporation or association, and bylaws of
3 the association.

4 (d) The rule is adopted, amended, or repealed in good faith and
5 in substantial compliance with the requirements of this article.

6 1357.140. The board of directors of an association shall
7 provide members with notice and an opportunity to comment
8 before making a rule change.

9 1357.150. (a) Use of the procedure described in subdivision
10 (b) satisfies the requirements of Section 1357.140. An association
11 is not required to use this procedure.

12 (b) The board of directors of the association shall deliver notice
13 of a proposed rule change to every association member. The notice
14 shall include all of the following information:

15 (1) The text of the proposed rule change.

16 (2) A description of the purpose and effect of the proposed rule
17 change.

18 (3) The deadline for submission of a comment on the proposed
19 rule change.

20 (c) For a period of not less than 15 days following delivery of
21 a notice of a proposed rule change, the board of directors shall
22 accept written comments from association members on the
23 proposed rule change.

24 (d) The board of directors shall consider any comments it
25 receives and shall make a decision on a proposed rule change at a
26 board meeting. A decision shall not be made until after the
27 comment submission deadline.

28 (e) The board of directors shall deliver notice of a rule change
29 to every association member. The notice shall set out the text of the
30 rule change and state the date the rule change takes effect. The date
31 the rule change takes effect shall be not less than 15 days after
32 notice of the rule change is delivered.

33 (f) A document that is required to be delivered pursuant to this
34 section is subject to Section 1350.7.

35 1357.160. (a) Use of the procedure described in subdivision
36 (b) satisfies the requirements of Section 1357.140. An association
37 is not required to use this procedure.

38 (b) If the board of directors of an association determines that an
39 immediate rule change is necessary to address an imminent threat
40 to public health or safety, or an imminent risk of substantial

1 economic loss to the association, it may make the rule change
2 immediately.

3 (c) As soon as possible after making a rule change under this
4 section, but not more than 15 days after making the rule change,
5 the board of directors shall deliver notice of the rule change to
6 every association member. The notice shall include the text of the
7 rule change and an explanation of why an immediate rule change
8 is required to address an imminent threat to public health or safety,
9 or an imminent risk of substantial economic loss to the association.

10 (d) A rule change made under this section is effective for 120
11 days, unless the rule change provides for a shorter effective period.

12 (e) A rule change made under this section may not be readopted
13 under this section.

14 (f) A document that is required to be delivered pursuant to this
15 section is subject to Section 1350.7.

16 1357.170. (a) Members of an association owning 10 percent
17 or more of the separate interests may call a special meeting to
18 reverse a rule change.

19 (b) A special meeting may be called by delivering a written
20 request on the chair or secretary of the board of directors. The
21 written request may not be delivered more than 30 days after the
22 members of the association are notified of the rule change.
23 Members are deemed to have been notified of a rule change on
24 delivery of notice of the rule change, or on enforcement of the
25 resulting rule, whichever is sooner.

26 (c) The rule change may be reversed by the affirmative vote of
27 a majority of the votes represented and voting at a duly held
28 meeting at which a quorum is present (which affirmative votes also
29 constitute a majority of the required quorum) or by written ballot
30 in conformity with Section 7513 of the Corporations Code, or if
31 the declaration or bylaws require a greater proportion, by the
32 affirmative vote or written ballot of the proportion required.

33 (d) Unless otherwise provided in the declaration or bylaws, for
34 the purposes of this section, a member may cast one vote per
35 separate interest owned.

36 (e) A meeting called under this section is governed by Chapter
37 5 (commencing with Section 7510) of Part 3 of Division 2 of Title
38 1 of, and Sections 7612 and 7613 of, the Corporations Code.



(f) A rule change reversed under this section may not be readopted for one year after the date of the meeting reversing the rule change.

1357.180. (a) This article applies to a rule change made on or after January 1, 2004.

(b) Nothing in this article affects the validity of a rule change made before January 1, 2004.

SEC. 11. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1358, to read:

CHAPTER 3. OWNERSHIP RIGHTS AND INTERESTS

SEC. 12. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1363, to read:

CHAPTER 4. GOVERNANCE

SEC. 13. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1363, to read:

Article 1. Association

SEC. 14. Section 1363 of the Civil Code is amended to read:

1363. (a) A common interest development shall be managed by an association which may be incorporated or unincorporated. The association may be referred to as a community association.

(b) An association, whether incorporated or unincorporated, shall prepare a budget pursuant to Section 1365 and disclose information, if requested, in accordance with Section 1368.

(c) Unless the governing documents provide otherwise, and regardless of whether the association is incorporated or unincorporated, the association may exercise the powers granted to a nonprofit mutual benefit corporation, as enumerated in Section 7140 of the Corporations Code, except that an unincorporated association may not adopt or use a corporate seal or issue membership certificates in accordance with Section 7313 of the Corporations Code.

1 The association, whether incorporated or unincorporated, may
2 exercise the powers granted to an association by Section 383 of the
3 Code of Civil Procedure and the powers granted to the association
4 in this title.

5 (d) Meetings of the membership of the association shall be
6 conducted in accordance with a recognized system of
7 parliamentary procedure or any parliamentary procedures the
8 association may adopt.

9 (e) Notwithstanding any other provision of law, notice of
10 meetings of the members shall specify those matters the board
11 intends to present for action by the members, but, except as
12 otherwise provided by law, any proper matter may be presented at
13 the meeting for action.

14 (f) Members of the association shall have access to association
15 records *and operating rules* in accordance with Article 3
16 (commencing with Section 8330) of Chapter 13 of Part 3 of
17 Division 2 of Title 1 of the Corporations Code.

18 (g) If an association adopts or has adopted a policy imposing
19 any monetary penalty, including any fee, on any association
20 member for a violation of the governing documents or rules of the
21 association, including any monetary penalty relating to the
22 activities of a guest or invitee of a member, the board of directors
23 shall adopt and distribute to each member, by personal delivery or
24 first-class mail, a schedule of the monetary penalties that may be
25 assessed for those violations, which shall be in accordance with
26 authorization for member discipline contained in the governing
27 documents. The board of directors shall not be required to
28 distribute any additional schedules of monetary penalties unless
29 there are changes from the schedule that was adopted and
30 distributed to the members pursuant to this subdivision.

31 (h) When the board of directors is to meet to consider or impose
32 discipline upon a member, the board shall notify the member in
33 writing, by either personal delivery or first-class mail, at least 10
34 days prior to the meeting. The notification shall contain, at a
35 minimum, the date, time, and place of the meeting, the nature of
36 the alleged violation for which a member may be disciplined, and
37 a statement that the member has a right to attend and may address
38 the board at the meeting. The board of directors of the association
39 shall meet in executive session if requested by the member being
40 disciplined.

1 If the board imposes discipline on a member, the board shall
2 provide the member a written notification of the disciplinary
3 action, by either personal delivery or first-class mail, within 15
4 days following the action. A disciplinary action shall not be
5 effective against a member unless the board fulfills the
6 requirements of this subdivision.

7 (i) Whenever two or more associations have consolidated any
8 of their functions under a joint neighborhood association or similar
9 organization, members of each participating association shall be
10 entitled to attend all meetings of the joint association other than
11 executive sessions, (1) shall be given reasonable opportunity for
12 participation in those meetings and (2) shall be entitled to the same
13 access to the joint association's records as they are to the
14 participating association's records.

15 (j) Nothing in this section shall be construed to create, expand,
16 or reduce the authority of the board of directors of an association
17 to impose monetary penalties on an association member for a
18 violation of the governing documents or rules of the association.

19 SEC. 15. An article heading is added to Title 6 (commencing
20 with Section 1350) of Part 4 of Division 2 of the Civil Code,
21 immediately preceding Section 1363.05, to read:

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23 Article 2. Common Interest Development Open Meeting Act
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25 SEC. 16. An article heading is added to Title 6 (commencing
26 with Section 1350) of Part 4 of Division 2 of the Civil Code,
27 immediately preceding Section 1363.1, to read:

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29 Article 3. Managing Agents
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31 SEC. 17. An article heading is added to Title 6 (commencing
32 with Section 1350) of Part 4 of Division 2 of the Civil Code,
33 immediately preceding Section 1363.5, to read:

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35 Article 4. Public Information
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37 SEC. 18. A chapter heading is added to Title 6 (commencing
38 with Section 1350) of Part 4 of Division 2 of the Civil Code,
39 immediately preceding Section 1364, to read:
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CHAPTER 5. OPERATIONS

SEC. 19. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1364, to read:

Article 1. Common Areas

SEC. 20. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1365, to read:

Article 2. Fiscal Matters

SEC. 21. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1365.7, to read:

Article 3. Insurance

SEC. 22. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1366, to read:

Article 4. Assessments

SEC. 23. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1368, to read:

CHAPTER 6. TRANSFER OF OWNERSHIP INTERESTS

SEC. 24. Section 1368 of the Civil Code is amended to read:
1368. (a) The owner of a separate interest, other than an owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title to the separate interest or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

1 (1) A copy of the governing documents of the common interest
2 development, *including any operating rules, and* including a copy
3 of the association's articles of incorporation, or, if not
4 incorporated, a statement in writing from an authorized
5 representative of the association that the association is not
6 incorporated.

7 (2) If there is a restriction in the governing documents limiting
8 the occupancy, residency, or use of a separate interest on the basis
9 of age in a manner different from that provided in Section 51.3, a
10 statement that the restriction is only enforceable to the extent
11 permitted by Section 51.3 and a statement specifying the
12 applicable provisions of Section 51.3.

13 (3) A copy of the most recent documents distributed pursuant
14 to Section 1365.

15 (4) A true statement in writing obtained from an authorized
16 representative of the association as to the amount of the
17 association's current regular and special assessments and fees, any
18 assessments levied upon the owner's interest in the common
19 interest development that are unpaid on the date of the statement,
20 and any monetary fines or penalties levied upon the owner's
21 interest and unpaid on the date of the statement. The statement
22 obtained from an authorized representative shall also include true
23 information on late charges, interest, and costs of collection which,
24 as of the date of the statement, are or may be made a lien upon the
25 owner's interest in a common interest development pursuant to
26 Section 1367 or 1367.1.

27 (5) A copy or a summary of any notice previously sent to the
28 owner pursuant to subdivision (h) of Section 1363 that sets forth
29 any alleged violation of the governing documents that remains
30 unresolved at the time of the request. The notice shall not be
31 deemed a waiver of the association's right to enforce the governing
32 documents against the owner or the prospective purchaser of the
33 separate interest with respect to any violation. This paragraph shall
34 not be construed to require an association to inspect an owner's
35 separate interest.

36 (6) A copy of the preliminary list of defects provided to each
37 member of the association pursuant to Section 1375, unless the
38 association and the builder subsequently enter into a settlement
39 agreement or otherwise resolve the matter and the association
40 complies with Section 1375.1. Disclosure of the preliminary list



1 of defects pursuant to this paragraph shall not waive any privilege
2 attached to the document. The preliminary list of defects shall also
3 include a statement that a final determination as to whether the list
4 of defects is accurate and complete has not been made.

5 (7) A copy of the latest information provided for in Section
6 1375.1.

7 (8) Any change in the association's current regular and special
8 assessments and fees which have been approved by the
9 association's board of directors, but have not become due and
10 payable as of the date disclosure is provided pursuant to this
11 subdivision.

12 (b) Upon written request, an association shall, within 10 days
13 of the mailing or delivery of the request, provide the owner of a
14 separate interest with a copy of the requested items specified in
15 paragraphs (1) to (8), inclusive, of subdivision (a). The association
16 may charge a fee for this service, which shall not exceed the
17 association's reasonable cost to prepare and reproduce the
18 requested items.

19 (c) An association shall not impose or collect any assessment,
20 penalty, or fee in connection with a transfer of title or any other
21 interest except the association's actual costs to change its records
22 and that authorized by subdivision (b).

23 (d) Any person or entity who willfully violates this section
24 shall be liable to the purchaser of a separate interest which is
25 subject to this section for actual damages occasioned thereby and,
26 in addition, shall pay a civil penalty in an amount not to exceed five
27 hundred dollars (\$500). In an action to enforce this liability, the
28 prevailing party shall be awarded reasonable attorneys' fees.

29 (e) Nothing in this section affects the validity of title to real
30 property transferred in violation of this section.

31 (f) In addition to the requirements of this section, an owner
32 transferring title to a separate interest shall comply with applicable
33 requirements of Sections 1133 and 1134.

34 SEC. 25. A chapter heading is added to Title 6 (commencing
35 with Section 1350) of Part 4 of Division 2 of the Civil Code,
36 immediately preceding Section 1368.4, to read:
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CHAPTER 7. CIVIL ACTIONS AND LIENS

SEC. 26. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1370, to read:

CHAPTER 8. CONSTRUCTION OF INSTRUMENTS AND ZONING

SEC. 27. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1375, to read:

CHAPTER 9. CONSTRUCTION DEFECT LITIGATION

SEC. 28. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1376, to read:

CHAPTER 10. IMPROVEMENTS

SEC. 29. An article heading is added immediately preceding Section 1376 of the Civil Code, to read:

Article 1. Video or Television Antenna

SEC. 30. Article 2 (commencing with Section 1378.010) is added to Title 6 of Part 4 of Division 2 of the Civil Code, to read:

Article 2. Review of Proposed Alteration of Separate Interest

1378.010. If an association's governing documents require that an owner of a separate interest obtain association approval before altering a separate interest, exclusive use common area, or part of the common area, this article governs the association's decisionmaking process.

1378.020. (a) A decision to approve or disapprove a proposed alteration of a member's separate interest, an exclusive use common area, or part of the common area, shall be made in good faith and in a fair and reasonable manner.

(b) The procedure provided in Article 3 (commencing with Section 1378.050) is fair and reasonable. Other procedures may also be fair and reasonable under the circumstances.

1378.030. A writ proceeding for review of a decision to approve or disapprove a proposed alteration of a member's separate interest, an exclusive use common area, or part of the common area, is subject to Section 1354.

SEC. 31. Article 3 (commencing with Section 1378.050) is added to Title 6 of Part 4 of Division 2 of the Civil Code, to read:

Article 3. Optional Procedure

1378.050. This article provides a fair and reasonable procedure that an association may use in reviewing a member's proposed alteration of a separate interest, an exclusive use common area, or part of the common area. Use of the procedure is not mandatory.

1378.060. (a) The definitions in this section govern the construction of this article.

(b) "Participating member" means an association member who, before the reviewing body makes its decision on the proposed alteration, submits to the reviewing body a comment opposed to a proposed alteration of a separate interest, exclusive use common area, or part of the common area.

(c) "Reviewing body" means the person or group authorized by an association's governing documents to approve or disapprove the alteration of a separate interest, exclusive use common area, or part of the common area.

1378.070. (a) An association member who proposes to alter a separate interest shall submit a written application to the reviewing body. The application shall be in the form specified by the association. An incomplete application may be returned to the applicant with an explanation of why the application is incomplete. No further action is required on an application that is returned as incomplete.

(b) Within 30 days after receipt of the application, the reviewing body shall deliver notice of the application to the following persons:

(1) If the proposed alteration would affect the common area, to all members.

1 (2) If the association delivers a newsletter, billing statement, or
2 other document to all members at least once a month, to all
3 members.

4 (3) If the proposed alteration would not affect the common area
5 and the association does not deliver a newsletter, billing statement,
6 or other document to all members at least once a month, to
7 members owning separate interests within 500 feet of, or located
8 within the same building as, the separate interest that is the subject
9 of the proposed alteration.

10 (c) The notice shall include the address or location of the
11 separate interest, exclusive use common area, or part of the
12 common area, that is the subject of the application, a description
13 of the proposed alteration adequate to inform other members of its
14 nature, and the date after which the reviewing body may make its
15 decision.

16 (d) Not less than 20 days nor more than 45 days after delivery
17 of the notice of the application, the reviewing body shall deliver
18 a written decision to the applicant and to any participating
19 member. If the reviewing body does not deliver a written decision
20 to the applicant within 45 days after delivery of the notice of
21 application, the application is deemed disapproved on the 45th
22 day.

23 (e) A written decision approving a proposed alteration of a
24 separate interest, exclusive use common area, or part of the
25 common area, shall state whether the reviewing body received any
26 comments opposing the alteration.

27 1378.080. (a) Except as provided in subdivision (b), an
28 applicant may not commence work on an approved alteration of
29 a separate interest, exclusive use common area, or part of the
30 common area, until either the period for appeal passes without an
31 appeal being filed or the approval is upheld on appeal.

32 (b) If a written decision approving alteration of a separate
33 interest, exclusive use common area, or part of the common area,
34 states that no member comments opposing the alteration were
35 received by the reviewing body before it made its decision, the
36 applicant may commence work on the approved alteration
37 immediately.

38 1378.090. (a) An applicant or participating member may
39 appeal the approval or disapproval of a proposed alteration of a
40 separate interest, exclusive use common area, or part of the

1 common area, to the board of directors of the association. The
2 appeal shall be in writing and shall be delivered to the board of
3 directors within 30 days after the reviewing body's decision is
4 delivered or the proposed alteration is deemed disapproved.

5 (b) Within 30 days after receipt of a timely request for appeal,
6 the board of directors shall deliver notice of the appeal to the
7 following persons:

8 (1) If the proposed alteration would affect the common area, to
9 all members.

10 (2) If the association delivers a newsletter, billing statement, or
11 other document to all members at least once a month, to all
12 members.

13 (3) If the proposed alteration would not affect the common area
14 and the association does not deliver a newsletter, billing statement,
15 or other document to all members at least once a month, to
16 members owning separate interests within 500 feet of, or located
17 within the same building as, the separate interest that is the subject
18 of the proposed alteration.

19 (c) The notice of appeal shall state the time and place where the
20 appeal will be heard.

21 (d) Within 45 days after notice of the appeal is delivered, the
22 board of directors shall meet and review de novo the proposed
23 alteration that is the subject of the appeal. Any association member
24 may testify at the appeal and may submit written materials in
25 support of or in opposition to the proposed alteration.

26 (e) Within 15 days after hearing the appeal, the board of
27 directors shall deliver its decision to the applicant and, if the appeal
28 is by a person other than the applicant, to that person. The decision
29 shall be in writing and shall include a statement explaining the
30 basis for the decision, including reference to facts, standards, or
31 provisions of the governing documents that support the decision.

32 1378.100. (a) A decision of the reviewing body made under
33 Section 1378.070 is not subject to judicial review.

34 (b) Any member may seek judicial review of a decision of the
35 board of directors of the association made under Section 1378.090.
36 Judicial review may be by writ of administrative mandamus,
37 pursuant to Section 1094.5 of the Code of Civil Procedure.

38 1378.110. In making a decision to approve or disapprove a
39 proposed alteration of a member's separate interest, an exclusive
40 use common area, or part of the common area, the reviewing body

1 or board of directors may consider any relevant information. The
2 reviewing body or board of directors is not required to consider
3 information other than that provided to the reviewing body or
4 board of directors.

5 1378.120. A document that is required to be delivered
6 pursuant to this article is subject to Section 1350.7.

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